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OFFICE OF PETITIONS

In re Application of	:	
Bristow et al.	:	
Application No. 09/558,472	:	DECISION ON PETITION
Filed: April 25, 2000	:	
Attorney Docket No. MYOG:004USD1/SLH	:	

This is a decision on the petition under 37 CFR 1.1.137(b), filed April 21, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

This application was held abandoned for failure to submit a timely Appeal Brief within the two-month extendable time period from the filing of a Notice of Appeal on August 11, 2004. Accordingly, the application became abandoned on October 12, 2004. On May 17, 2005, the Office mailed a Notice of Abandonment.

Petitioners asserted that they filed a timely and proper response in the form of an Appeal Brief and an authorization to charge the Deposit Account for any necessary fees on November 15, 2004 (certificate of mailing date November 12, 2004; the first business day after Veteran's Day). Petitioners explained that an incorrect application number was placed in the heading of these documents, and therefore, they were not matched with the present application.

Upon a review of the record, it appears that the application number in the heading of the response identified Application No. "09/782,953" rather than the intended Application No. "09/558,472." The response was located in the file of Application No. 09/782,953. A review of the correspondence indicates that the USPTO received the response on November 15, 2004 (certificate of mailing date November 12, 2004; the first business day after Veteran's Day), but it was not matched with the file due to the incorrect application number.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition under 37 CFR 1.181 is granted. The Notice of Abandonment is hereby withdrawn. The \$170.00 fee for filing an appeal brief paid on November 17, 2004, will be transferred from Application No. 09/782,953 to Application No. 09/558,472. The Office will also charge the \$55.00 fee for an extension of time for response within the first month as requested on November 15, 2004 (certificate of mailing dated November 12, 2004). The \$1,500.00 petition fee and the \$500.00 fee for filing an appeal brief paid on April 21, 2006, are unnecessary and will be refunded to the Deposit Account.

The matter is being referred to the Technology Center 1632 for review of the Appeal Brief filed on November 15, 2004 (certificate of mailing dated November 12, 2004).

Telephone inquiries regarding this decision maybe directed to the undersigned at (571) 272-3211. All other questions concerning the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

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